As President, I have no eyes but constitutional eyes.

Mr. President, in closing, I call upon the Democratic Members of the Senate to emulate the example set by our party in its grandest hour and manifest their devotion to constitutional government. I call upon the Republican Members of the Senate to follow Abraham Lincoln's example and view the pending proposal with "constitutional eyes."

If Senators on both sides of the aisle will do these things, America's constitutional birthright will not be sold for a mess of political pottage.

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPOSITION OF FORFEITURES FOR CERTAIN VIOLATIONS OF RULES OF FEDERAL COMMUNICATIONS COMMISSION

During the delivery of Mr. ERVIN'S speech,

Mr. PASTORE. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. Mr. President, I yield to the Senator from Rhode Island with the understanding that I do not thereby lose the floor, and that my act in so doing will not result in my remarks on this day being counted as two speeches on the question before the Senate.

Mr. PASTORE. And with the further proviso that the remarks of the Senator from Rhode Island will appear at the conclusion of the very eloquent remarks of the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PASTORE. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1668.

The PRESIDING OFFICER (Mr. JORDAN in the chair) laid before the Senate the amendment of the House of Representatives to the bill (S. 1668) to authorize the imposition of forfeitures for certain violations of the rules and regulations of the Federal Communications Commission in the common carrier and safety and special fields which was to strike out all after the enacting clause and insert:

That title V of the Communications Act of 1934 is amended by adding at the end thereof a new section as follows:

"FORFEITURE IN CASES OF VIOLATIONS OF CERTAIN RULES AND REGULATIONS

"SEC. 510. (a) Where any radio station other than licensed radio stations in the broadcast service or stations governed by the provisions of parts II and III of title III and section 507 of this Act—

"(1) is operated by any person not holding a valid radio operator license or permit of the class prescribed in the rules and regulations of the Commission for the operation of such station;

"(2) fails to identify itself at the times and in the manner prescribed in the rules and regulations of the Commission;

"(3) transmits any false call contrary to regulations of the Commission;

"(4) is operated on a frequency not authorized by the Commission for use by such station;

"(5) transmits unauthorized communications on any frequency designated as a distress or calling frequency in the rules and regulations of the Commission;

"(6) interferes with any distress call or distress communication contrary to the regulations of the Commission;

"(7) fails to attentuate spurious emissions to the extent required by the rules and regulations of the Commission;

"(8) is operated with power in excess of that authorized by the Commission;

"(9) renders a communication service not authorized by the Commission for the particular station;

"(10) is operated with a type of emission not authorized by the Commission;

"(11) is operated with transmitting equipment other than that authorized by the Commission; or

"(12) fails to respond to official communications from the Commission;

the licensee of the station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed $100. In the case of a violation of clause (2), (3), (5), or (6) of this subsection, the person operating such station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed $100. The violation of the provisions of each numbered clause of this subsection shall constitute a separate offense: *Provided,* That $100 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for the violation of the provisions of any one of the numbered clauses of this subsection, irrespective of the number of violations thereof, occurring within ninety days prior to the date the notice of apparent liability is issued or sent as provided in subsection (c) of this section: *And provided further,* That $500 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for all violations of the provisions of this section, irrespective of the total number thereof, occurring within ninety days prior to the date such notice of apparent liability is issued or sent as provided in subsection (c) of this section.

"(b) The forfeiture liability provided for in this section shall attach only for a willful or repeated violation of the provisions of this section by any licensee or person operating a station.

"(c) No forfeiture liability under this section shall attach after the lapse of ninety days from the date of the violation unless within such time a written notice of apparent liability, setting forth the facts which indicate apparent liability, shall have been issued by the Commission and received by such person, or the Commission has sent him such notice by registered mail or by certified mail at his last known address. The person so notified of apparent liability shall have the opportunity to show cause in writing why he should not be held liable and, upon his request, he shall be afforded an opoprtunity for a personal interview with an official of the Commission at the field office of the Commission nearest to the person's place of residence."

SEC. 2. Section 504(b) of the Communications Act of 1934 (47 U.S.C. 504(b)) is amended by striking out "sections 503(b) and 507" and inserting in lieu thereof "section 503(b), section 507, and section 510".

SEC. 3. The amendments made by this Act shall take effect on the thirtieth day after the date of its enactment.

Mr. PASTORE. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. PASTORE. Mr. President, this is a perfecting amendment which was instituted by the House on the recommendation of the Federal Communications Commission. It is acceptable to the members of our committee, and I hope it will be acceptable to the Members of the Senate.

HARLAN CLEVELAND DESCRIBES "VIEW FROM THE DIPLOMATIC TIGHTROPE"

Mr. PROXMIRE. Mr. President, the Assistant Secretary of State for International Organization Affairs, Mr. Harlan Cleveland, recently spoke to the American Society for Public Administration on the subject "View From the Diplomatic Tightrope." In this remarkable speech, several of the toughest, most persistent problems in the area of diplomatic practice are given a thoughtful once-over-lightly. Mr. Cleveland describes the difficulties inherent in keeping our foreign policy in step with the stunningly rapid pace of progress in science, knowledge, and technology.

In Mr. Cleveland's words, it is a problem of coping with "the obsolescence of old ideas which once were good," but which, because of the changes wrought by nuclear weapons, the worldwide wave of rising expectations in nations called underdeveloped, the shifting focus of the Soviet threat—and the resultant changes in peace-keeping techniques—are no longer sufficient.

This poses an enormous challenge to all of us. Believing that Mr. Cleveland's remarks merit a wide audience, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

VIEW FROM THE DIPLOMATIC TIGHTROPE

(Statement by the Honorable Harlan Cleveland, Assistant Secretary of State for International Organization Affairs, before the American Society for Public Administration, Saturday, April 14, 1962, Detroit, Mich.)

I

Some time ago, you will recall, the great Wallendas had an accident on their high wire. Two of the younger members of the troupe plummeted from their pyramid and were killed; a third is still in the hospital. The oldest of the Wallendas, 60-year-old Herman, who still does handstands on the high wire, was asked whether they weren't afraid up there.

"Certainly we're afraid," he said. "If you do not feel afraid, either you're a fool or you haven't got enough experience. You don't want anyone up there who is not afraid; he endangers everybody. You have to realize there is danger in front of you and danger behind you. Don't get careless; don't get too tense. You can't go too far in either direction."

I doubt if in his busy and productive life as a circus entertainer, Herman Wallenda has ever given much attention to that

citizen to vote on account of race or color.

Third. They must not violate the 19th amendment which forbids a State to deny or abridge the right of any qualified citizen to vote on account of sex.

There is no reasonable basis whatever for any contention that any of the existing State literacy tests violate the 14th amendment. Such tests do not deprive any citizen of due process of law because they bear a rational relationship to the purpose of the States to insure an independent and intelligent exercise of the right of suffrage—*Lassiter* v. *Northampton County Election Board* (360 U.S. 45, L. Ed. (2d) 1072); *Stone* v. *Smith* (159 Mass. 414, 34 N.E. 521). Moreover, they do not deny to anyone the equal protection of the laws because they apply alike to all persons regardless of race or sex—*Lassiter* v. *Northampton County Election Board* (360 U.S. 45, 3 L. Ed. (2d) 1072).

The 15th and 19th amendments granted no new voting rights except that of not being discriminated against on the ground of race, or color, or sex—*Lassiter* v. *Northampton County Election Board* (360 U.S. 45, 3 L. Ed. (2d) 1072); *Guinn* v. *United States* (238 U.S. 347, 59 L. Ed. 1340); *Pope* v. *Williams* (193 U.S. 621, 48 L. Ed. 817); *James* v. *Bowman* (190 U.S. 127, 47 L. Ed. 979); *United States* v. *Cruikshank* (92 U.S. 542, 23 L. Ed. 588); *United States* v. *Reese* (92 U.S. 542, 23 L. Ed. 588); *United States* v. *Reese* (92 U.S. 214 23 L. Ed. 563).

As has already been pointed out, the only operative part of S. 2750, that is, section 2, does not attempt to protect any qualified voter against discrimination in voting in Federal elections on the basis of race or color. On the contrary, it is concerned with the protection of persons who have completed the sixth grade and who are threatened with a denial of their right to vote on account of their performance in an examination for literacy or otherwise.

Consequently, S. 2750 constitutes an attempt on the part of Congress to legislate in respect to literacy tests—a power denied to the Congress by the Constitution.

The 14th and 15th amendments are designed to prohibit the States from doing the things which they forbid. Section 5 of the 14th amendment and section 2 of the 15th amendment do not empower Congress to legislate generally in respect to these things. They merely empower the Congress to adopt legislation appropriate to enforce the specified prohibitions against State action.

This being true, there are two very obvious limitations upon the power of Congress to legislate for the enforcement of the 14th and 15th amendments. The first is that such legislation must be addressed solely to State action; and the second is that such legislation must be confined to dealing with the prohibitions imposed by the amendments upon such State action—*Karem* v. *United States* (121 F. 250).

S. 2750 does not constitute appropriate legislation to enforce either the 14th or 15th amendments for two reasons, and in consequence is null and void. These reasons are as follows:

First. S. 2750 is not limited to take effect only in case a State violates the prohibitions of the 14th or 15th amendments. On the contrary, it applies immediately upon its enactment to each of the 50 States, no matter how well it may have performed its duty under the amendments. As the Supreme Court of the United States declared in the civil rights cases:

> Until some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the 14th amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity (*Civil Rights Cases,* 109 U.S. 3, 27 L. Ed. 835; *United States* v. *Harris,* 106 U.S. 629, 27 L. Ed. 290).

Second. S. 2750 constitutes an attempt by the Congress to supersede State legislatures and legislate affirmatively upon a subject, that is, qualifications for voting, which lies within the domain of State legislation—*Ex parte Rahrer* (140 U.S. 545, 35 L. Ed. 572); *Civil Rights* cases (109 U.S. 3, 27 L. Ed. 835); *United States* v. *Cruikshank* (92 U.S. 542, 33 L. Ed. 588).

Moreover, S. 2750 exceeds the jurisdiction of Congress to enact appropriate legislation under the 15th amendment and is null and void because its provisions do not deal with discriminations in voting on account of race or color—*Pope* v. *Williams* (193 U.S. 621, 48 L. Ed. 817); *James* v. *Bowman* (190 U.S. 127, 47 L. Ed. 979); *United States* v. *Cruikshank* (92 U.S. 542, 23 L. Ed. 588); *United States* v. *Reese* (92 U.S. 215, 23 L. Ed. 653); *Karem* v *United States* (121 F. 250).

On the contrary, it deals exclusively with literacy and understanding tests, which fall within the domain of State legislation—*Camacho* v. *Rogers* (199 F. Supp. 155).

VI

The Constitution is the precious birthright of all Americans. It was written and ratified by the Founding Fathers in the hope that it would put the fundamentals of the Government they desired to establish beyond the control of impatient public officials, temporary majorities, and the varying moods of public opinion.

The greatest of the Founding Fathers was George Washington, who presided over the Convention which framed the Constitution. In his Farewell Address to the American people, he gave us advice which must be heeded by those in positions of authority if the Constitution is to be preserved for the benefit of all Americans of all generations and all races. This is what he said:

> If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. * * * But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield.

S. 2750 represents an attempt to have Congress usurp and exercise in part by simple legislative fiat the constitutional powers of the States to prescribe the qualifications of those who are to vote for presidential and vice presidential electors, Senators and Representatives in Congress.

This constitutional power has resided in the States since the birth of the Republic. If any public officials think that such power should be transferred either in whole or in part from the States to the Congress, they ought to seek such transfer in a forthright way by an amendment to the Constitution. They ought not to undertake to declare by a simple act of Congress that the enlightened patriots who framed and ratified our Constitution did not mean what they said in simple words.

When men succumb to the temptation to do evil, they always lay to their souls the flattering unction that the evil they do will result in good. It is thus with the advocates of S. 2750.

They assert that they are simply attempting to secure to qualified voters their right to vote. It is bad indeed for the country for any qualified voters to be denied the right of suffrage. But there is one thing which would be worse for the country, and that would be for the Senators to manifest by their support of S. 2750 that reverence for constitutional government in America has died in their hearts.

This is not the first assault upon the constitutional provisions which confer upon States the power to prescribe the qualifications for voters. About 100 years ago, Thaddeus Stevens and other impatient men seeking political ends induced the Congress to pass the Reconstruction Acts whereby Congress imposed military rule upon the Southern States and robbed them of their constitutional powers to prescribe the qualifications for voting. At that time, the Democratic Party witnessed its grandest hour, because it stood up for constitutional government. At its national convention held in New York in July 1868, the Democratic Party made this ringing declaration upon the precise issue which now confronts the Senate:

> And we do declare and resolve, That ever since the people of the United States threw off all subjection to the British Crown, the privilege and trust of suffrage have belonged to the several States, and have been granted, regulated, and controlled exclusively by the political power of each State respectively, and that any attempt by Congress, on any pretext whatever, to deprive any State of his right, or interfere with its exercise, is a flagrant usurpation of power, which can find no warrant in the Constitution; and if sanctioned by the people will subvert our form of government, and can only end in a single centralized and consolidated government, in which the separate existence of the States will be entirely absorbed, and an unqualified despotism be established in place of a Federal union of coequal States; and that we regard the reconstruction acts so-called, of Congress, as such an usurpation, and unconstitutional, revolutionary, and void.

One of the greatest men who ever occupied the White House was Abraham Lincoln, the first Republican President. On one occasion when Lincoln was urged to take action not sanctioned by the Constitution, he declared: